

## **REMARKS/ARGUMENTS**

Claims 1-19 are presently pending in the application as set forth in the Preliminary Amendment filed August 13, 2004.

In this amendment,

Claim 1 is amended

Claim 20 was added.

No claims have been canceled

Claims 2-19 remain unaltered.

Applicants note that amendments were made to the specification. The amendments to the specification correct grammatical and typographical errors. These amendments do not add new matter to the application.

In the present action, the Examiner entered a restriction requirement as follows:

Group I        Claims 1-12 drawn to a retaining wall in Class 182, Subclass 113;

Group II       Claims 13-19 drawn to an attachment assembly in class 182, subclass 230

Initially, Applicant notes that new Claim 20 was added. New Claim 20 is a combination of Claims 1, 13, 15 and 16. Applicant further notes that Claims 15 and 16 are substantially identical to Claims 8 and 9, respectively. That is, Claim 20 provides for the retaining wall fall protection system of Claim 1, but which includes the attachment assembly of Claim 13 and as further defined in Claims 15 and 16 (or 8 and 9). In view of the fact that Claim 20 incorporates, verbatim, the attachment assembly of Claim 13 and as

defined in Claims 15 and 16, Applicant respectfully asserts that new Claim 20 properly belongs in Group II.

Applicant additionally notes that Claim 1 has been amended to change “attachment mechanism” to “attachment assembly” so that the language of Claim 1 is consistent with the rest of the claims.

Initially, Applicant notes that Claims 1-12 are directed to a “retaining wall fall protection system” as set forth in the preamble of Claims 1-12, rather than a retaining wall. However, as best understood by Applicant’s this will not affect the classification noted above by the Examiner of Claims 1-12.

Applicant respectfully traverses the restriction. In particular, Claims 6 and 8-12 are substantially identical in language to Claims 14-19. Claim 6 depends directly from Claim 1 and Claims 8-12 all depend from Claim 6. Claim 7 also depends from Claim 6. The subject matter of Claim 7 is incorporated in Claim 13. Thus, Claims 6-12 are directed to a retaining wall fall protection system comprising an attachment assembly as set forth in Claim 13. Hence, the subject matter of Claim 6 would be classified in the same class and subclass as Claim 13; the Examiner would not be required to conduct additional searches to Examine Claims 6-12 along with Claims 13-20. Therefore, Applicant requests that the Examiner redraw the restriction requirement to include Claims 6-12 in Group II.

In response to the Examiner’s restriction requirement, Applicant elects Group II. Should the Examiner redraw the restriction requirement as requested, then Group II would include Claims 6-20. Otherwise Group II includes Claims 13-20.

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Further, the Examiner entered a species/subspecies restriction between the embodiments of the attachment device retainer shown in FIGS. 17 and 20. Applicant notes that at least Claims 1, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18 and 20 read on the species of FIG. 17; that at least Claims 1, 6, 7, 8, 9, 12, 13, 14, 15, 16, 19 and 20 read on the species of FIG. 20; and that at least Claims 1, 6, 7, 8, 9, 13, 14, 15, 16, 20 are generic to both species. Applicant further notes that Claims 2-7 are directed to aspects of the fall protection system, and that the attachment assembly of either FIG. 17 or FIG. 20 could be used with the fall protection system set forth in Claims 2-6. Hence, Claims 2-5 are also deemed to be generic with respect to both species.

In response to the species/subspecies restriction, Applicant elects to proceed with the attachment assembly retainer of FIG. 17 (Claims 1, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18 and 20).

You are hereby authorized to charge payment of an extension fee associated with this communication or credit any overpayment to Deposit Account No. 162201.

Respectfully Submitted,

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/jonathan p. soifer, reg. no. 34,932/  
Jonathan P. Soifer, Reg. No. 34,932  
Polster, Lieder, Woodruff & Lucchesi, L.C.  
12412 Powerscourt Drive, Suite 200  
St. Louis, Missouri 63131  
Tel: (314) 238-2400  
Fax: (314) 238-2401  
e-mail: Jsoifer@patpro.com